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Crl.M.P.No.3866 of 2023 in Crl.A.No.277 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.3866 of 2023
in Crl.A.No.277 of 2023

Ramachandran
S/o Perumal

.. Petitioner

-vs-

The State represented by
The Inspector of Police
Attur Police Station
Salem District
(Crime No.1122 of 2012)

.. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence made in judgment in S.C.No.130 of 2015 dated 24.01.2023 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), (FAC), Salem and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner :: Mr.J.Jayan for Mr.S.N.Arunkumar

For Respondent :: Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

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Challenging the conviction and sentence imposed on the petitioner (A1) by the trial Court for the offence under Sections 366 & 376(1) of IPC to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for 1 year for the offence under Section 366 of IPC; to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for 1 year for the offence under Section 376(1) of IPC, which are ordered to run concurrently, vide the impugned judgment, the petitioner has preferred the appeal. The petitioner has filed the present application seeking to suspend the sentence and enlarge him on bail, pending the appeal.

2. We have heard both sides and perused the materials available on record.

3. The case of the prosecution is that on 31.08.2012 at about 11.30 a.m., at Sekkaramedu, Ammampalayam, when the victim girl came out of the house for washing the clothes near the water tank situated near her



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house, the petitioner kidnapped her from the lawful guardianship of her parents and took her to Valayamadevi. It is their further case that in spite of her protest, she was taken to Perambalur in a bus and later the petitioner took the victim to Kanchipuram and stayed there along with her. The further case of the prosecution is that the accused had taken the victim to Tirupathi, where the petitioner/first accused married the minor victim in the presence of other accused and they all stayed at Tirupathi for two days. The petitioner thereafter stayed with the victim girl in a rented house in Settipedu, Kanchipuram. Since the victim was a minor girl aged 16 years, the petitioner was prosecuted, convicted and sentenced for the offence stated above. It is admitted that A2 to A5, who are the close relatives of A1, are acquitted of the charges under Sections 366, 376(1) readwith 109 of IPC by the trial Court.

4. From the evidence of the victim girl, it is seen that she had voluntarily gone with the accused and that she also states that she married the accused. Further, in the whole incident, the petitioner had taken the victim girl with her consent and married her. The trial Court, taking into consideration the age of the victim, has found the accused guilty of the offence. But the trial Court failed to consider the inconsistencies in the



testimony of P.W.2 and the evidence adduced by the prosecution in the proper perspective. Therefore, considering the age of the accused and the peculiar facts and circumstances of this case, this Court finds a prima facie case in favour of the accused to suspend the sentence.

5. Accordingly, this criminal miscellaneous petition stands allowed and the substantive sentence of imprisonment imposed on the petitioner is suspended and he is granted bail on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom one should be a blood relative, each for a likesum, to the satisfaction of the learned Sessions Judge, Maglir Needhimandram (Mahila Court) (FAC), Salem.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge may obtain a copy of their Aadhar card or Bank Pass Book and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall



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make arrangements to file an application under Section 317 Cr.P.C.

and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

(S.S.S.R.,J.) (S.M.,J.)
12.10.2023

SS

To

1. The Sessions Judge, Magalir Needhimandram,
(Mahila Court) (FAC), Salem
2. The Inspector of Police, Attur Police Station, Salem District
3. The Superintendent, Central Prison, Coimbatore
4. The Public Prosecutor, High Court, Madras



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S.S.SUNDAR, J.
AND
SUNDER MOHAN, J.

SS

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